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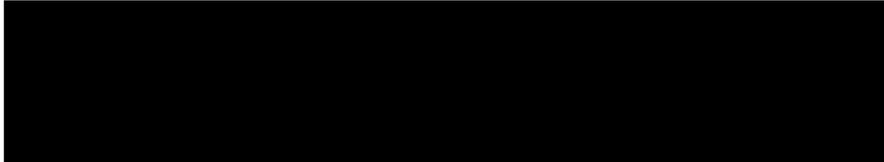
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



**U.S. Citizenship
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Services**

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FILE: [REDACTED]
[LIN 03 230 55568]

OFFICE: Nebraska Service Center

DATE: JUN 14 2007

IN RE: Applicant:



APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center (NSC). It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be rejected.

The applicant is a national of El Salvador who is seeking employment authorization pursuant to 8 C.F.R. § 274a.12(c)(19). As provided in 8 C.F.R. § 244a.12(a), Citizenship and Immigration Services (CIS) is directed to grant an alien upon approval of his or her application for Temporary Protected Status (TPS) an employment authorization document that is valid during the initial period of the foreign state's TPS designation and any subsequent extension periods.

CIS records show that the applicant filed two Applications for Temporary Protected Status (Form I-821) with the Nebraska Service Center during the initial registration period for El Salvadoran nationals – LIN 01 151 52360 and LIN 02 180 51849 – both of which were denied.

On July 28, 2003, the applicant filed a Form I-765, Application for Employment Authorization, with the NSC [LIN 03 230 55568], to which was appended another Form I-821, identified as an application for re-registration of TPS. The NSC Director denied the employment authorization application on November 17, 2003, stating that the applicant was ineligible for employment authorization because his TPS applications had been denied. The director also stated that "[t]here is no appeal to this decision."

The applicant filed a Form I-290B, Notice of Appeal to the [AAO], on January 7, 2004. In addition to the fact that it was not filed within the 33-day appeal period prescribed in the regulations at 8 C.F.R. § 103.3(a)(2)(i) and 8 C.F.R. § 103.5a(b), the appeal must be rejected because, as indicated in the NSC Director's decision, the denial of an application for employment authorization cannot be appealed when the alien has not been granted TPS.

An alien applying for employment authorization has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act.

Since the applicant has been denied for TPS, the appeal of the employment authorization denial will be rejected.¹

ORDER: The appeal is rejected.

¹ The record includes a report from the Federal Bureau of Investigation (FBI) based on the applicant's fingerprints, dated April 21, 2006, indicating that the applicant was arrested under the name of [REDACTED] by the police department in Fremont, Nebraska, on April 13, 2003, charged with two misdemeanor offenses of driving under the influence of alcohol and driving without an operator's license, and was convicted of both. Section 244(c)(2)(B)(i) of the Act specifies that an alien who has been convicted of a felony or two or more misdemeanors committed in the United States is not eligible for TPS.